

*REMARKS/ARGUMENTS**The Pending Claims*

Claims 1-3, 5-7, 11-14, 19-37, and 42 are pending and are directed to woven or knit fabrics and methods of preparing such fabrics. Claims 2, 5-7, 11-14, 19-32, 34-37, and 42 are withdrawn, whereas claims 1, 3, and 33 are under examination.

Amendments to the Claims

The claims have been amended to point out more particularly and claim more distinctly the invention. Claims 2, 5-7, 11-14, 19-32, 34-37, and 42 have been relabeled as withdrawn as a result of being directed to non-elected subject matter in response to a restriction requirement. Claims 4, 8-10, 15-18, and 38-41 have been canceled. Claim 1 has been amended to recite that the at least one polyester fiber is selected from the group consisting of (a) a highly section-modified polyester fiber which has a titanium oxide content of less than 1.0% by weight, which has at least 3 projections continuously present on the fiber circumference in the fiber lengthwise direction, and which has a fiber cross section having a modified cross section degree that is a ratio of a circumscribed circle to an inscribed circle of at least 1.8, and (b) a hollow polyester fiber which has a titanium oxide content of less than 1.0% by weight and which has a hollow percentage of at least 8%, as supported by originally filed claim 2 and the specification at, for example, page 14, lines 18-29, and page 16, lines 12-13. Claim 3 has been amended to recite that the air-jet interlacing spun yarn comprises a section modified polyester staple fiber subjected to no graft polymerization, as supported by the specification at, for example, page 25, lines 14-32. A typographical error has been corrected in withdrawn claim 7. Specifically, the term "leas" has been replaced with "least." Claim 33 has been rewritten in independent form. No new matter has been added by way of these amendments.

Priority Claim

Applicants note that the Office has not acknowledged the claim for priority under 35 U.S.C. § 119 nor receipt of the certified copy of the priority documents. Applicants filed the claim for priority and submitted certified copies of the five priority documents with the International Bureau upon filing International Patent Application PCT/JP03/09714. Since the

present application is the U.S. national phase of International Patent Application PCT/JP03/09714, the priority documents should have been forward to the Office upon entry into the U.S. national stage. Accordingly, Applicants request that the Office acknowledge the claim for priority and receipt of the certified copies of the priority documents.

Summary of the Office Action

The restriction requirement has been maintained.

Claim 4 has been rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite.

Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent 6,253,582 (Driggars).

Claims 3, 4, and 33 have been rejected under 35 U.S.C. § 103(a) as obvious over Driggars in combination with U.S. Patent 5,331,032 (Suzuki et al.).

Claims 8-10, 15-18, and 38-41 have been rejected under 35 U.S.C. § 103(a) as obvious over Driggars in view of Suzuki et al. and further in view of JP 08-144152 (Yamamoto et al.).

Reconsideration of these rejections is hereby requested.

Notice of References Cited

Applicants note that the Examiner refers to the Driggars reference as U.S. Patent 6,253,582 in the text of the Office Action. U.S. Patent 6,253,582 is not listed in the Form PTO-892 (Notice of References Cited) that is included with the Office Action, but rather Form PTO-892 lists related U.S. Patent 6,439,002. To ensure a proper record, Applicants respectfully request that the Examiner list the referenced U.S. Patent 6,253,582 in a subsequent Notice of References Cited.

Discussion of the Restriction Requirement

The Examiner has maintained the restriction requirement. Claims 2, 5-7, 11-14, 19-32, 34-37, and 42 have been labeled as withdrawn since these claims are directed to non-elected subject matter.

Discussion of the Indefiniteness Rejection

Claim 4 allegedly is indefinite. To expedite prosecution, and not in acquiescence of the rejection, claim 4 has been canceled. Accordingly, this rejection is moot.

*Discussion of the Anticipation and Obviousness Rejections**A. Claim 1*

Claim 1 allegedly is anticipated by or, in the alternative, is obvious over Driggars. Driggars allegedly discloses a knitted fabric with a pilling resistance greater than 3 and comprising yarns that are formed from air jet spun polyester. It is conceded that Driggars does not explicitly disclose the claimed UV shielding rate or visible ray transmittance. The Examiner contends that these characteristics are inherently disclosed in Driggars or these properties represent obvious modifications of Driggars' disclosure.

Claim 1 has been amended to recite a polyester-fiber-containing woven or knit fabric comprising an air-jet interlacing spun yarn which comprises (a) highly section-modified polyester fiber which has a titanium oxide content of less than 1.0% by weight or (b) hollow polyester fiber which has a titanium oxide content of less than 1.0% by weight. When an air-jet interlacing spun yarn as defined by pending claim 1 is used for a polyester fabric, the resulting fabric can have a pilling property of class 3 or higher, a UV shielding rate of 84% or higher, a visible ray transmittance of 40% or less, and softness (see, e.g., Examples, Table 1; page 55, lines 4-10; and page 15, line 27, to page 16, line 11, of the specification). As a result, by not using a so-called full-dull fiber, which typically contains 3.0% by weight or more of titanium oxide, a polyester fabric simultaneously having less sheerness, a high UV shielding rate, and a good anti-pilling property can be produced (see, e.g., page 2, line 22, through page 3, line 2, of the specification).

Driggars (either U.S. Patent 6,253,582 or 6,439,002) does not teach or suggest the use of either a highly section-modified polyester fiber *or* a hollow polyester fiber as defined by claim 1 of the present invention. Therefore, Driggars does not anticipate amended claim 1.

Claim 1 also is not obvious in view of Driggars. As noted above, Driggars does not teach or suggest a highly section-modified polyester fiber *or* a hollow polyester fiber to be used in an air-jet interlacing spun yarn. Driggars, therefore, does not recognize the benefits associated with the resulting polyester fabric. In other words, when neither a highly section-modified polyester fiber nor a hollow polyester fiber, as defined in claim 1, is used to prepare a polyester fabric, the polyester fabric will not have the improved property characteristics observed in the fabric according to the present invention. See, e.g., Examples 1-5 as compared to Comparative Examples 1-6, set forth in the specification (Tables 1 and 2 and page 55, line 4, through page 57, line 15). Since Driggars does not disclose either of the aforementioned fibers for the fabric as defined in claim 1 or recognize the benefits of using such fibers, one of ordinary skill in the art would not have been led or even motivated to modify Driggars in such a way so as to produce the fabric of claim 1.

In view of the foregoing, the polyester-fiber-containing woven or knit fabric of amended claim 1 is not anticipated by nor obvious over Driggars. Accordingly, the rejection in view thereof should be withdrawn.

B. Claims 3, 4, and 33

Claims 3, 4, and 33 allegedly are obvious over Driggars in combination with Suzuki et al. Driggars discloses a pill-resistant fabric but fails to disclose that the polyester yarn comprises a hydrophilic compound which is graft polymerized onto the fiber. Suzuki et al. allegedly discloses a polyester fiber material that can have a treatment applied to the fiber to make the fibers hydrophilic by graft polymerizing a hydrophilic monomer onto the fibers (col. 23, lines 45-56). The Examiner contends that it would have been obvious to have graft polymerized a hydrophilic monomer onto the polyester fibers of Driggars with an expectation to provide hydrophilic polyester fibers.

Since claim 4 has been canceled, the following comments are directed to claims 3 and 33.

The fabric of amended claim 3 comprises an air-jet interlacing spun yarn which comprises (a) a polyester staple fiber graft-polymerization-processed with a hydrophilic compound *and* (b) a section modified polyester staple fiber subjected to no graft polymerization. As a result of the combination of such fibers in the fabric, the fabric has an improved texture (specifically, it does not feel as slimy) as compared to a fabric that uses a graft polymerization processed polyester staple fiber alone. Either alone or in combination, Driggars and Suzuki et al. do not teach or suggest a combination of both a polyester staple fiber graft-polymerization-processed with a hydrophilic compound *and* a section modified polyester staple fiber subjected to no graft polymerization. Without the disclosure of both components of the polyester yarn in combination, it cannot be said that the cited references render the subject matter of claim 3 obvious.

Claim 33 is directed to a stretching bulky staple fiber woven or knit fabric comprising an air-jet interlacing spun yarn which comprises (a) at least 10% by weight of a side by side crimped staple fiber having a fineness of 1.0 to 6.0 dtex, and (b) at least 10% by weight of a low-shrinkage staple fiber having a boiling water shrinkage rate according to JIS L 1015 of 4% or less. Claim 33 does not recite a polyester staple fiber graft-polymerization-processed with a hydrophilic compound as alleged by the Examiner in the Office Action. Moreover, neither Driggars nor Suzuki et al. teach or suggest a combination of side by side crimped staple fiber and a low-shrinkage staple fiber, as recited in claim 33. Since the cited references do not teach or suggest all the components of claim 33, the subject matter of claim 33 is not obvious in view of Driggars and Suzuki et al.

Accordingly, the obviousness rejection in view of Driggars and Suzuki et al. should be withdrawn.

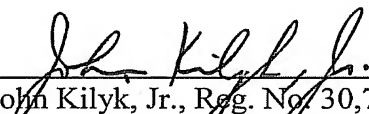
C. Claims 8-10, 15-18, and 38-41

Claims 8-10, 15-18, and 38-41 allegedly are obvious over Driggars in view of Suzuki et al. and further in view of Yamamoto et al. To expedite prosecution, and not in acquiescence of the rejection, claims 8-10, 15-18, and 38-41 have been cancelled. Accordingly, the obviousness rejection with respect to these claims is moot.

Conclusion

Applicants respectfully submit that the patent application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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